



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0074; Notice 1]

#### Daimler Trucks North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Daimler Trucks North America, LLC, (DTNA) has determined that certain model year (MY) 2020-2022 Freightliner Cascadia and Western Star motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*.

DTNA filed an original noncompliance report dated June 30, 2021, and later amended it on July 16, 2021. DTNA petitioned NHTSA on July 29, 2021, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of DTNA's petition.

**FOR FURTHER INFORMATION CONTACT:** Jack Chern, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), (202) 366-0661, [jack.chern@dot.gov](mailto:jack.chern@dot.gov).

**DATES:** Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also

be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

## **SUPPLEMENTARY INFORMATION:**

### **I. Overview:**

DTNA has determined that certain MY 2020-2022 Freightliner Cascadia and Western Star motor vehicles do not fully comply with the requirements of paragraph S5.1 of FMVSS No. 205, *Glazing Materials* (49 CFR 571.205). DTNA filed an original noncompliance report dated June 30, 2021, and later amended it on July 16, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. DTNA subsequently petitioned NHTSA on July 29, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of DTNA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

### **II. Windshields Involved:**

Approximately 68,658 MY 2020-2022 Freightliner Cascadia, MY 2021 Western Star 57X, MY 2021-2022 Western Star 49X, and MY 2021-2022 Western Star 47X motor vehicles, manufactured between June 25, 2020, and June 22, 2021, are potentially involved.

### **III. Noncompliance:**

DTNA explains that the noncompliance is that windshield installed in the subject vehicles may contain a Tintex Plus light material, which, in combination with the windshield

configuration and thickness, do not fully meet the requirements of paragraph S5.1 of FMVSS No. 205. Specifically, the windshields in the subject vehicles have a luminous transmittance measured between 67.35 and 68.01 percent, instead of the required 70 percent.

#### **IV. Rule Requirements:**

Paragraph S5.1 of FMVSS No. 205 includes the requirements relevant to this petition. Glazing materials for use in motor vehicles must conform to ANSI/SAE Z26.1-1996

#### **V. Summary of DTNA's Petition:**

The following views and arguments presented in this section, "V. Summary of DTNA's Petition," are the views and arguments provided by DTNA. They have not been evaluated by the Agency and do not reflect the views of the Agency. DTNA describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

DTNA states that although the luminous transmittance of the windshields in the subject vehicles is 1.99-2.65 percent less than the required 70 percent, the subject vehicles have such features as windshield's installation angles that make effective visibility much higher than other vehicles with similar transmittance."

DTNA claims that NHTSA has previously determined that luminous transmittance, lower than what is required, to not be a safety risk. According to DTNA, NHTSA's "Report to Congress on Tinting of Motor Vehicle Windows," in March 1991 found that "the light transmittance of windows of the then new passenger cars and vans that complied with Standard No. 205 did not present an unreasonable risk of accident occurrence." DTNA says that a study reported by TUY Rheinland also supports its position that the subject noncompliance is inconsequential to motor vehicle safety because the report states that "low contrast targets were not seen 100% of the time by either group of subjects, but the normally sighted group performed equally well in seeing them through windshields of 89, 76, and 58% transmittance" and visibility was not found to be "much reduced" until it reached 40%. Thus, DTNA believes that the subject

windshields “are far closer to the standard” in luminous transmittance than what the TUY Rheinland study found would reduce visibility.

DTNA explains the light transmittance “as experienced by a vehicle driver, is a function of the windshield construction and installation angle.” DTNA states that because of the measurements found in the subject windshields, the luminous transmittance of the subject windshields is “only nominally outside the specification but perform in a manner exceeding the typical modern passenger vehicle with a window at a standard angle.” Therefore, the luminous transmittance in the subject windshields are “as good or better than the visibility through windshields of other vehicles that comply” with the requirement.

Furthermore, DTNA explains that due to the “6-9 month lifetime” for heavy truck windshields, “the length of time for any particular windshield to be on the road is limited” and would be replaced with windshields that do not contain the subject noncompliance.

DTNA claims that NHTSA has previously granted inconsequentiality petitions for similar noncompliances with luminous transmittance.<sup>1</sup> DTNA says that in those cases, NHTSA agreed that although the percentage of luminous transmittance was lower, the reduction “would have no practical or perceivable effect on driver visibility.” Therefore, DTNA believes that granting its petition would be consistent with inconsequentiality petitions that NHTSA has previously granted.

DTNA concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to

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<sup>1</sup> See Ford Motor Company; Grant of Application for Decision of Inconsequential Noncompliance, 60 FR 31345 (June 14, 1995); *see also* Fleetwood Enterprises, Inc.; Action on Application for Decision of Inconsequential Noncompliance, 63 FR 10964 (March 5, 1998)

exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that DTNA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles and replacement windshield glass panes under their control after DTNA notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director,*

*Office of Vehicle Safety Compliance.*

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